

IN THE HIGH COURT OF JUSTICE Claim Nos. CO/3107/2021, CO/3717/2021
ADMINISTRATIVE COURT
BETWEEN:

THE QUEEN (on the application of
(1) THE ANTI-TRAFFICKING AND LABOUR EXPLOITATION UNIT
(2) QW (by his litigation friend THE OFFICIAL SOLICITOR)

Claimant

-and-

THE SECRETARY OF STATE FOR JUSTICE

Defendant



DRAFT CONSENT ORDER

Before the Honourable Mr Justice Lane

Upon the Claimants and the Defendant having agreed on 6 July 2022 to compromise the claims for judicial review on terms that the Defendant agrees to:

- (1) By 31 July 2022, commence the development of operational guidance relating to victims and potential victims of modern slavery for staff working in prisons (“the **Operational Guidance**”).
- (2) Use his best endeavours to publish the Operational Guidance by 31 October 2022.
- (3) Prior to publication of the Operational Guidance, consult the organisations who participated in the roundtable meeting on 21 February 2022 on the contents of the Operational Guidance.
- (4) Clarify in the Operational Guidance all the matters set out at paragraph 16(a)-(m) of the second witness statement of Stephen O’Connor. In particular, that reasonable

grounds and conclusive grounds decisions should be notified to a potential or confirmed victim's keyworker and that the keyworker should then assess the potential or confirmed victim's needs (para.16 (f)); that reasonable grounds and conclusive grounds decisions should be communicated to all other prison staff through the NOMIS system (para.16 (h)); and that prisons officers should inform partner agencies (including the Salvation Army) before a potential or confirmed victim of trafficking is released from custody to support the provision of resettlement services (including, if appropriate, support to protect the victim from re-trafficking).

- (5) Include in the Operational Guidance provision in relation to bail applications for potential or confirmed victims of trafficking, including (if appropriate) liaison with the Salvation Army.
- (6) Include in the Operational Guidance provision for a specific assessment of the modern day slavery needs of any prisoner who has a positive reasonable or conclusive grounds decision.
- (7) Consider whether HMPPS should be designated a first responder, to enable it to make direct referrals to the National Referral Mechanism for victims of trafficking.

And upon the Defendant agreeing not to rely on the bringing, stay or dismissal of this claim as the basis for a defence to any civil claim that QW may bring if he is re-encountered (but without prejudice to the Defendant's right to advance any other defence to such a claim, including any limitation defence).

BY CONSENT, IT IS ORDERED THAT:

1. All further proceedings in these claims are stayed except for the purpose of carrying the terms of the agreement set out above into effect and for that purpose the parties have permission to apply without the need to issue fresh proceedings.
2. If no application is made to lift the stay in accordance with paragraph 1 of this order by 30 November 2022, the claims shall stand dismissed.

3. The Defendant shall pay ATLEU's reasonable costs of the claim, limited to (i) the time costs of the Claimant's counsel team at Treasury civil counsel panel rates; and (ii) in respect of Freshfields Bruckhaus Deringer LLP's time, a pro bono costs order under section 194 of the Legal Services Act 2007 for the benefit of the Access to Justice Foundation to be the subject of detailed assessment if not agreed, subject to any cap ordered by the Court in accordance with paragraph 4 below.
4. The question of whether paragraph 4(ii) of the Order of Jay J dated 20 January 2022 should be varied to provide that the pro bono costs order referred to therein should be capped shall be determined by the Court at the hearing listed on 7 July 2022 at 10.30am.
5. The Defendant shall pay QW's reasonable costs of the claim, to be subject to detailed assessment if not agreed.
6. The Defendant shall pay 50% of the total estimated costs payable to ATLEU and QW on account in accordance with CPR 44.2(8) within 14 days of being notified of the Claimants' estimated legal costs (such estimate to be without prejudice to the Claimants' bills of costs).

7th
Dated the 6 July 2022



By the Court



Anti Trafficking
Labour Exploitation
Unit

For the Treasury Solicitor



On behalf of the First
Claimant
Freshfields Bruckhaus
Deringer LLP
100 Bishopsgate
London
EC2P 2SR

On behalf of the Second
Claimant
ATLEU
Blackfriars Settlement
1 Rushworth Street
London
SE1 0RB

On behalf of the Defendant

Government Legal
Department
102 Petty France
London
SW1H 9GL